IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

WP(C).No. 23390 of 2006(H)

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PETITIONER:

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BY ADV. SRI.U.K.RAMAKRISHNAN
SRI.P.V.LOHITHAKSHAN
SMT.P.VIJAYAMMA
SMT.UMA GOPINATH
SRI.V.KRISHNA MENON

RESPONDENTS:

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1. R.PARAMESWARAN NAIR,
VRYAMPAYATH VEEDU, EARA P.O.,
NILAMPERUR, KOTTAYAM.

2. THE LABOUR COURT, ERNAKULAM.

BY ADV. SRI.P.RAMAKRISHNAN
SRI.T.C.KRISHNA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/12/2006, ALONG WITH WPC NO. 30809 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1 CHARGE SHEET DT 9.11.05.

P2 CLAIM STATEMENT DT 2.1.99 FILED BY R1 BEFORE R2.

P3 WRITTEN STATEMENT DT 13.5.99 FILED BEFORE R2.

P4 AWARD DT 19.4.06 OF R2 IN ID.53/98

/ TRUE COPY /

P.A. TO JUDGE

**C.N. RAMACHANDRAN NAIR, J.**

**W.P. (C) Nos. 23390 H and 30809 P OF 2006**

**Dated this the 5th day of December, 2006**

**J U D G M E N T**

In both the connected cases, the management as well as the worker are challenging same order of the labour court upholding findings of the enquiry officer but interfering with the punishment imposed by the management. After hearing both sides and on going through the orders, I do not find any ground to interfere with the findings of the labour court upholding the findings of the enquiry officer. However, it is seen that the punishment is not proportionate to the gravity of the guilt that is, negligence in work leading to injury to a fellow worker. The delinquent worker was kept out of service for 9 years and the labour court reinstated him with 25% back wages. However, since the worker is retired, there is no scope for reinstatement. Having regard to the facts proved I feel ends of justice will be met if the labour court award is modified by deleting the direction to pay 25% back wages to the worker because the labour court has upheld the findings of guilt of the worker. However, since the delinquent worker was kept out of employment for nearly 9 years, I feel the same will itself serve as sufficient punishment. Accordingly, the award is modified by deleting direction to pay 75% back wages but with direction to the management to give retirement benefits to the worker treating him as notionally in service in that rank for the period he was kept out of service.

**(C.N. RAMACHANDRAN NAIR, JUDGE)**

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